

A A

A06RAY 1

1ST ADD RAY NASHVILLE HFR 4-6 XXX CARES NOT TO D-4.
LIVINGSTON LAST VISITED RAY IN FEBRUARY SHORTLY AFTER THE 6TH DISTRICT APPEALS COURT IN CINCINNATI TOOK THE PLEA FOR A TRIAL UNDER ADVISEMENT.

PRISON SPOKESMEN SAID RAY, WHO NOW HAS A CELLMATE, IS LOOKING BETTER SINCE HE WAS RELEASED FROM HIS SOLITARY CELL ON THE PRISON'S MAXIMUM SECURITY UNIT LAST AUGUST.

BERNARD FENSTERWALD JR OF WASHINGTON, ANOTHER RAY LAWYER, DISPUTES THOSE WHO SAY RAY HAS CHANGED HIS STORY OVER THE YEARS AND IS NOT TO BE BELIEVED.

"I DON'T THINK HE'S BEEN INCONSISTENT," FENSTERWALD SAID IN A TELEPHONE INTERVIEW. "HE'S ALWAYS MAINTAINED HE WAS NOT AT THE SCENE OF THE CRIME. IT'S JUST THAT HE'S BEEN ASKED SO MANY DETAILED QUESTIONS THAT UNLESS HE HAD A PHOTOGRAPHIC MEMORY, HE'S BOUND TO HAVE SOME DISCREPANCIES."

LIVINGSTON INSISTS THAT HIS CLIENT HAS A CHANCE OF ACQUITTAL IF HE IS SUCCESSFUL IN WINNING THE FULL-FLEDGED TRIAL HE GAVE UP IN 1969 TO AVOID THE ELECTRIC CHAIR.

"IF WE COME TO TRIAL, THE BURDEN WILL BE ON THE STATE OF TENNESSEE TO PRODUCE EVIDENCE TO PROVE HIM GUILTY," THE PLAIN-SPOKEN MEMPHIS ATTORNEY SAID. "THEIR EVIDENCE IS CIRCUMSTANTIAL AT BEST AND I THINK WE CAN PUNCH HOLES IN IT."

THE STATE BASES ITS CASE ON FINGERPRINTS FOUND ON THE RIFLE USED IN THE SLAYING AND A WITNESS WHO CLAIMS HE SAW RAY FLEEING FROM THE FILTHY FLOPHOUSE BATHROOM WHERE THE SINGLE SHOT THAT SEVERED KING'S SPINAL CORD ALLEGEDLY WAS FIRED.

"THE STATE'S STAR WITNESS IS ESSENTIALLY A SKIDROW DRUNK," DRAWLED LIVINGSTON. "AND HIS CREDENTIALS ARE NOT UNIMPEACHABLE. I HARDLY THINK HIS EVIDENCE WILL STAND UP IN COURT."

RAY, WHO HAS SAID HE HAD NOTHING AGAINST KING AND HAD NEVER SEEN HIM, HAS MAINTAINED THAT HE WENT TO MEMPHIS AT THE REQUEST OF A MYSTERIOUS MAN KNOWN TO HIM ONLY AS "RAOUL".

HE ADMITS THAT HE BOUGHT THE .30-06 RIFLE IN BIRMINGHAM AND REGISTERED AT THE SLEAZY BOARDINGHOUSE ACROSS FROM THE MURDER SPOT. BUT SAYS HE FIRST HEARD OF THE CIVIL RIGHTS LEADER'S DEATH AS HE DROVE HIS WHITE MUSTANG TOWARD MISSISSIPPI.

HE SAID HE PANICKED WHEN HE HEARD ON THE CAR RADIO THAT HE WAS WANTED FOR THE CRIME, AND BEGAN A FLIGHT WHICH ENDED IN HIS ARREST IN ENGLAND JUNE 5, 1968.

THE STATE'S POSITION, WHICH HAS BEEN UPHELD ONCE BY A U.S. DISTRICT COURT IN MEMPHIS, IS THAT RAY IS "AN INTELLIGENT AND SEASONED CRIMINAL WHO WAS AND IS WELL AWARE OF THE NATURE OF CRIMINAL PROCEEDINGS."

A BRIEF FILED BY ASSISTANT STATE ATTORNEY GENERAL WILLIAM HAYNES JR. SAYS RAY DELIBERATELY ENTERED THE GUILTY PLEA TO AVOID THE DEATH PENALTY.

"THERE WAS NO REAL HOPE OF AVOIDING THE DEATH PENALTY FOR JAMES EARL RAY OTHER THAN TO ENTER THE PLEA OF GUILTY...AND RAY'S DECISION WAS A REASONED AND INTELLIGENT ONE," HAYNES WROTE.

THE JUSTICE DEPARTMENT, WHICH HAS SO FAR DECLINED SUGGESTIONS THAT IT REOPEN THE KING INVESTIGATION, HAS STATED IT IS SATISFIED THAT RAY ACTED ALONE. BUT STILL UNANSWERED IS THE QUESTION OF WHERE RAY--A SMALL-TIME HOLDUP MAN AND ESCAPEE FROM THE MISSOURI STATE PRISON--OBTAINED THE MONEY TO FINANCE HIS \$2,000 MUSTANG, HIS TRIP TO MEMPHIS AND SUBSEQUENT FLIGHT THROUGH FOUR COUNTRIES.

WHEN HE WAS CAUGHT, THE FUGITIVE STILL HAD \$200 IN HIS POSSESSION. THOSE WHO BELIEVE THE CASE SHOULD BE REOPENED POINT TO RECENT HINTS OF A CONSPIRACY BROUGHT FORTH BY CONVICTED HEROIN DEALER ROBERT BYRON WATSON AND CONVICTED CONFIDENCE MAN CLIFFORD H. ANDREWS. CLAIMS BY WATSON AND ANDREWS THAT THEY HEARD OF A PLOT AGAINST KING HAVE LARGELY BEEN DISCOUNTED, BUT HAVE RAISED SOME QUESTIONS.

IN ADDITION, RUMORS OF AN FBI CONSPIRACY AGAINST KING HAVE ALSO SURFACED.

LAWYERS FOR BOTH SIDES NOW SAY THAT WHETHER RAY GETS A TRIAL WILL LIKELY BE DECIDED BY THE SUPREME COURT, POSSIBLY IN EARLY 1977.

"ANY WAY I SEE IT, THE SUPREME COURT IS GOING TO HAVE TO DECIDE THE MATTER," LIVINGSTON SAYS. "THEY (THE PROSECUTION) FOUGHT US EVERY STEP OF THE WAY. IF WE WIN IN THE APPEALS COURT, THEY'LL FIGHT US ON UP TO THE SUPREME COURT. IF WE LOSE, YOU CAN BE SURE WE'LL APPEAL."

HENRY HAILE, A FORMER ASSISTANT TENNESSEE ATTORNEY GENERAL WHO WAS PART OF THE FIRST SUCCESSFUL ATTEMPT TO BLOCK A TRIAL FOR RAY, AGREES.

"RAY'S ATTORNEYS WILL BE FIGHTING IN THE APPEALS COURTS AS LONG AS LIFE AND BREATH HOLD OUT," HE SAID RECENTLY.

RAY, WHO WILL PROBABLY FACE CHARGES IN MISSOURI AND ENGLAND EVEN IF HE CAN CONCEIVABLY WIN AN ACQUITTAL IN THE KING MURDER CASE, BECOMES ELIGIBLE FOR PAROLE 22 YEARS FROM NOW EVEN THOUGH HIS SENTENCE DOES NOT OFFICIALLY EXPIRE UNTIL APRIL 29, 2019.

BUT TENNESSEE'S RETIRING STAR PRISONER SHOWED THE FIRST TRACE OF A SMILE AS HE INDICATED HE'D RATHER RISK A TRIAL THAN CONTINUE TO SERVE OUT HIS TERM IN HIS DINGY, CRAMPED PRISON CELL.

"YOU'VE NEVER BEEN IN PRISON, HAVE YOU?" HE SAID WRYLY. "THAT'S

ALL I THINK I NEED TO SAY."

ADV FOR AMS SUN APRIL 4

UPI 04-01 08:23 PES

Handwritten notes:
J. O.
P.
M.
R.
S. B.
file
44-78861